

REMARKS

Review and reconsideration of the Office Action dated February 10, 2006, is respectfully requested.

Support for the amendment of the claims may be found, for example, at page 2, line 21, to page 3, line 7, of the specification as filed. Care has been taken not to introduce any new matter. Entry of the amendment is requested. Claims 14, 16-21 and 23 are pending.

Claim Rejections under 35 U.S.C. §112

The Examiner objects to the use of trademarks in pending independent Claim 23. The remaining claimms are rejected as depending from a rejected base claim.

In response, Applicants amend Claim 23, replacing the trademarks by respective chemical substance names.

Claim Rejections under 35 U.S.C. §103(a)

The Examiner rejects Claims 14, 16-20 and 23 under 35 U.S.C. 103(a) as obvious over Iliff. et al. (US 5,412,958) in view of US 2002/0013234 A1 (Severns et al.).

Iliff. et al is cited for teaching supercritical CO₂ as dry cleaning fluid, and for teaching a downstream container for scenting

The Examiner concedes that Iliff. et al does not teach the specific fragrance ingredients, the specific fragrance system, or the proportions recited in the present claims.

Severns et al is cited for teaching perfume containing fabric care compositions.

The Examiner considers that it would be obvious to use the fragrance system of Severns et al in the cleaning composition of Iliff. et al.

Applicants respectfully traverse.

According to the Examiner, document US 2002/0013234 A1 (Severns et al.) disclosed a lipophilic fluid use in a textile cleaning system. According to the Examiner, *"the term lipophilic fluid is intended to mean any non-aqueous fluid capable of removing sebum."* However, this is not true.

The Examiner's remark relates to paragraph 0033 of this document. However, the Examiner did not cite the complete paragraph, but has left out an important part. The complete paragraph reads:

"The term "lipophilic fluid" used herein is intended to mean any non-aqueous fluid capable of removing sebum, as qualified by the test described below."

Said "test described below" is described in paragraphs 0081 et seq. According to this test, the lipophilic fluid is to be placed in a vial and allowed to settle for 15 minutes *at room temperature and pressure* (paragraph 0084). It is clear to the skilled person that liquid carbon dioxide cannot exist at room temperature and pressure for 15 minutes. Thus, liquid carbon dioxide cannot pass the test required for a lipophilic fluid and thus is not a lipophilic fluid according to the teaching of Severns, et al.

Furthermore, paragraph 0077 of this document clearly states that "the essential lipophilic fluid is not a compressible gas such as carbon dioxide." Also, "in general, such a [lipophilic] fluid can be fully liquid at ambient temperature and pressure...". Clearly, the document of Severns, et al. teaches away from using liquid carbon dioxide.

The skilled person, when reading the publication of Severns, et al., is actively discouraged from combining liquid carbon dioxide with a fragrance composition. Also, the skilled person would not have any reason to doubt that the clear instructions of Severns, et al. against the use of carbon dioxide would be of an arbitrary nature. Quite the contrary is true: Since Severns et al. explicitly state that carbon dioxide is not a lipophilic fluid according to their {WP317346;2}

teaching, and that the lipophilic fluid has to pass a specific test to be accepted, the skilled person would expect that carbon dioxide cannot suitably be combined with a fragrance system. Thus, the document of Severns, et al. either is not relevant prior art, or supports our argument that the invention is based on an inventive step.

The Examiner combines the teaching of Severns, et al. with the document of Iliff et al. However, Applicants respectfully submit that this combination is illicit, as the documents pertain to two different fields of art. Iliff, et al. teach a cleaning system employing supercritical carbon dioxide, whereas Severns et al. teach a cleaning system that does not function with liquid carbon dioxide. Thus, the skilled person cannot combine the teaching of respective documents – but for this the skilled person does not have any incentive.

Next, the Examiner combines the teaching of Iliff, et al. with the publications of Murphy (US 6,313,079), Romack et al. (US 5,858,022), Bijl, et al. (US 6,605,580) and Townsend, et al. (US 5,784,905). However, none of the documents discloses a combination of liquid carbon dioxide and any of the fragrances of amended Claim 23. Thus, a combination of these documents would not have given the skilled person any idea how to provide a long lasting scent after cleaning of textiles. It is a merit of the present invention to have found the fragrances useful for a combination with liquid carbon dioxide, a problem that not even Severns, et al. could solve in 2001.

The present invention is novel in view that the cited references fail to recognize that the scent of the present invention: **60 % of the fragrance ingredients have a relative fabric affinity value (y) of at least 4.**

These criteria are critical as shown in the experimentation set forth in the specification (see pages 11 - 23 of the specification). Specifically, on page 15, lines 8 – 15, there is an indication that a fragrance ingredients fraction of at least 60 % with a fabric affinity value of at least 4 **produces a substantive odor on the garment or fabric treated.** Such high substantivity cannot be purposefully achieved with the method disclosed by the Iliff reference.

The Iliff reference is silent as to which fragrance ingredients should be used in the quantity as claimed in the present application to achieve the desired result.

Furthermore, the reference fails to recognize that the scent of the present invention: **60 % of said fragrance ingredients have a relative fabric affinity value (y) of at least 4.**

The objective technical problem of the invention, therefore, was to provide a process for cleaning soiled garments of fabric materials, so that a substantive odor on the garment or fabric is obtained. This technical problem is solved by the use of a fragrance system, which comprises fragrance ingredients, wherein **at least 60 % of said fragrance ingredients have a relative fabric affinity value (y) of at least 4.**

The present inventors have identified a previously unrecognized parameter (y) that, unlike the teaching of Iliff or Murphy, identifies fragrance systems suitable for use in a liquid CO₂ system. Through extensive experimentation and inventiveness, the present inventors have produced a result-effective variable for this purpose, where none was previously known.

The fabric affinity parameter (y) was previously unrecognized by those of ordinary skill as a result-effective variable (i.e. a variable that achieves a recognized result – the identification of fragrance systems suitable for use in a liquid CO₂ system). Only after a parameter is recognized as a result-effective variable, can the determination of its optimum or workable ranges be considered routine experimentation. MPEP 2144.05(II)(B).

Applicants respectfully point out to the Examiner that the Iliff reference does not choose his fragrance based on any criteria. There is BIG difference between choosing the fragrances randomly and having a criterion to choose which fragrances will produce the expected results.

In view that the Iliff reference does not contain all the elements of the present Claim 22, the reference does not anticipate this Claim.

The remaining claims are novel in view of their dependency with novel Claim 22.

Accordingly, withdrawal of the rejections is respectfully requested.

The manipulation of a parameter, which had not previously been recognized or appreciated as being a result effective parameter, may be the basis for patentability. In re Antonie (CCPA 1977) 195 USPQ 6. In the present application, the present inventors have identified a previously unrecognized parameter (y) that, unlike the teaching of Iliff or Murphy, identifies fragrance systems suitable for use in a liquid CO₂ system.

In Ex parte Viscardi, 136 USPQ 382. The applicant discovered that addition of carbon dioxide will remove static electricity. The Examiner rejected the application over a reference, which taught addition of carbon dioxide, but for a different reason. The court held that there is merit in the contention that a reference patent does, as urged by the Examiner, inherently provide carbon dioxide, which will remove static electricity. However, in an absence of appreciation by patentee (the reference) of the fact that carbon dioxide will remove static electricity, there is no reason why he, or one skilled in the art following his teaching, should inherently adjust the concentration of carbon dioxide for removal of complete static charge; hence, manipulative steps of applicants' claims do not inherently result from reference's disclosure.

Thus, in the absence of appreciation by patentee Iliff of the fact that the fabric affinity parameter (y), previously unrecognized by those of ordinary skill, help in recognizing the identification of fragrance systems suitable for use with liquid CO₂ in a cleaning system, there is no reason why this inventor, or one skilled in the art following his teaching, should expect that optimizing the parameter would successfully yield the desired improvement.

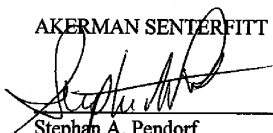
U.S. Application No.: 09/915,716
AMENDMENT E

Attorney Docket No.: 3968.037

Favorable consideration and early issuance of the Notice of Allowance are respectfully requested. The Examiner is respectfully requested to contact the undersigned at the indicated telephone number to arrange a telephone interview.

Respectfully submitted,

AKERMAN SENTERFITT

A handwritten signature in black ink, appearing to read 'Stephan A. Pendorf', is written over a horizontal line.

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